

IC 9-19-11

Chapter 11. Passenger Restraint Systems for Children

IC 9-19-11-1

Application of chapter

Sec. 1. This chapter does not apply to a person who operates any of the following vehicles:

- (1) A school bus.
- (2) A taxicab.
- (3) An ambulance.
- (4) A public passenger bus.
- (5) A motor vehicle having a seating capacity greater than nine (9) individuals that is owned or leased and operated by a religious or not-for-profit youth organization.
- (6) An antique motor vehicle.
- (7) A motorcycle.
- (8) A motor vehicle that is owned or leased by a governmental unit and is being used in the performance of official law enforcement duties.
- (9) A motor vehicle that is being used in an emergency.
- (10) A motor vehicle that is funeral equipment used in the operation of funeral services when used in:
 - (A) a funeral procession;
 - (B) the return trip to a funeral home (as defined in IC 25-15-2-15); or
 - (C) both the funeral procession and return trip.

As added by P.L.2-1991, SEC.7. Amended by P.L.67-2004, SEC.3; P.L.24-2006, SEC.3.

IC 9-19-11-2

Child less than eight years of age; child restraint system; penalty; child restraint system account

Sec. 2. (a) A person who:

- (1) holds an Indiana driver's license; and
 - (2) operates a motor vehicle in which there is a child less than eight (8) years of age who is not properly fastened and restrained according to the child restraint system manufacturer's instructions by a child restraint system;
- commits a Class D infraction, unless it is reasonably determined that the child will not fit in a child restraint system.

(b) Notwithstanding IC 34-28-5-5(c), funds collected as judgments for violations under this section shall be deposited in the child restraint system account established by section 9 of this chapter.

As added by P.L.2-1991, SEC.7. Amended by P.L.57-1998, SEC.4; P.L.116-1998, SEC.4; P.L.67-2004, SEC.4; P.L.2-2005, SEC.33.

IC 9-19-11-3

Child less than eight years of age; child does not fit in child restraint system; Indiana driver

Sec. 3. (a) A person who holds an Indiana driver's license and operates a motor vehicle in which there is a child commits a Class D infraction if:

(1) the child is less than eight (8) years of age and it is reasonably determined that the child will not fit in a child restraint system; and

(2) the child is not properly fastened and restrained according to the child restraint system manufacturer's instructions by a:

(A) child restraint system; or

(B) safety belt.

(b) Notwithstanding IC 34-28-5-5(c), funds collected as judgments for violations under this section shall be deposited in the child restraint system account established by section 9 of this chapter.

As added by P.L.2-1991, SEC.7. Amended by P.L.57-1998, SEC.5; P.L.116-1998, SEC.5; P.L.67-2004, SEC.5.

IC 9-19-11-3.3

Child less than 16 years of age; child restraint system or safety belt; non-Indiana driver

Sec. 3.3. (a) This section does not apply to a person who holds an Indiana driver's license.

(b) A person who operates a motor vehicle in which there is a child less than sixteen (16) years of age who is not properly fastened and restrained according to the child restraint system manufacturer's instructions by a:

(1) child restraint system; or

(2) safety belt;

commits a Class D infraction.

(c) Notwithstanding IC 34-28-5-5(c), funds collected as judgments for violations under this section shall be deposited in the child restraint system account established by section 9 of this chapter.

As added by P.L.67-2004, SEC.6.

IC 9-19-11-3.6

Safety belt standards; child between eight and 16 years of age; child restraint system or safety belt

Sec. 3.6. (a) A person who operates a motor vehicle in which there is a child and that is equipped with a safety belt meeting the standards stated in the Federal Motor Vehicle Safety Standard Number 208 (49 CFR 571.208) commits a Class D infraction if:

(1) the child is at least eight (8) years of age but less than sixteen (16) years of age; and

(2) the child is not properly fastened and restrained according to the child restraint system manufacturer's instructions by a:

(A) child restraint system; or

(B) safety belt.

(b) Notwithstanding IC 34-28-5-5(c), funds collected as judgments for violations under this section shall be deposited in the child restraint system account established by section 9 of this chapter.

As added by P.L.67-2004, SEC.7.

IC 9-19-11-3.7

Exception; child over 40 pounds; lap safety belt

Sec. 3.7. Notwithstanding sections 2, 3, 3.3, and 3.6 of this chapter, a person may operate a motor vehicle in which there is a child who weighs more than forty (40) pounds and who is properly restrained and fastened by a lap safety belt if:

- (1) the motor vehicle is not equipped with lap and shoulder safety belts; or
- (2) not including the operator's seat and the front passenger seat:

(A) the motor vehicle is equipped with one (1) or more lap and shoulder safety belts; and

(B) all the lap and shoulder safety belts are being used to properly restrain other children who are less than sixteen (16) years of age.

As added by P.L.67-2004, SEC.8.

IC 9-19-11-4

Designation of violations as being within authority of violations clerk

Sec. 4. Notwithstanding IC 34-28-5-9(1), a court may not designate violations of this chapter as being within the authority of the violations clerk.

As added by P.L.2-1991, SEC.7. Amended by P.L.1-1998, SEC.96.

IC 9-19-11-5

Enforcement proceedings; acquisition by violator of restraint system; costs; money judgments

Sec. 5. If at a proceeding to enforce section 2 of this chapter the court finds that the person:

- (1) has violated this chapter; and
- (2) possesses or has acquired a child restraint system;

the court shall enter judgment against the person. However, notwithstanding IC 34-28-5-4, the person is not liable for any costs or monetary judgment if the person has no previous judgments of violation of this chapter against the person.

As added by P.L.2-1991, SEC.7. Amended by P.L.1-1998, SEC.97; P.L.67-2004, SEC.9.

IC 9-19-11-6

Enforcement proceedings; absence of possession by violator of restraint system; costs; money judgments

Sec. 6. (a) If at a proceeding to enforce section 2 of this chapter the court finds that the person:

- (1) has violated this chapter; and
- (2) does not possess or has not acquired a child restraint system;

the court shall enter judgment against the person and shall order the

person to provide proof of possession or acquisition within thirty (30) days.

(b) Notwithstanding IC 34-28-5-4, if the person:

- (1) complies with a court order under this section; and
- (2) has no previous judgments of violation of this chapter against the person;

the person is not liable for any costs or a monetary judgment.

As added by P.L.2-1991, SEC.7. Amended by P.L.1-1998, SEC.98; P.L.67-2004, SEC.10.

IC 9-19-11-7**Forwarding to bureau of motor vehicles certified abstract of record of judgment**

Sec. 7. A court shall forward to the bureau of motor vehicles a certified abstract of the record of judgment of any person in the court for a violation of this chapter in the manner provided by IC 9-25-6.

As added by P.L.2-1991, SEC.7.

IC 9-19-11-8**Contributory negligence**

Sec. 8. Failure to comply with this chapter does not constitute contributory negligence.

As added by P.L.2-1991, SEC.7.

IC 9-19-11-9**Child restraint system account**

Sec. 9. (a) The child restraint system account is established within the state general fund to make grants under subsection (d).

(b) The account consists of the following:

- (1) Funds collected as judgments for violations under this chapter.
- (2) Appropriations to the account from the general assembly.
- (3) Grants, gifts, and donations intended for deposit in the account.
- (4) Interest that accrues from money in the account.

(c) The account shall be administered by the criminal justice institute.

(d) The criminal justice institute, upon the recommendation of the governor's council on impaired and dangerous driving, shall use money in the account to make grants to private and public organizations to:

- (1) purchase child restraint systems; and
- (2) distribute the child restraint systems:
 - (A) without charge; or
 - (B) for a minimal charge;

to persons who are not otherwise able to afford to purchase child restraint systems. The criminal justice institute shall adopt rules under IC 4-22-2 to implement this section.

(e) Money in the account is appropriated continuously to the

criminal justice institute for the purposes stated in subsection (a).

(f) The expenses of administering the account shall be paid from money in the account.

(g) The treasurer of state shall invest the money in the account not currently needed to meet the obligations of the account in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the account.

(h) Money in the account at the end of a state fiscal year does not revert to the state general fund.

As added by P.L.67-2004, SEC.11.

IC 9-19-11-10**Violation; no assessment of points**

Sec. 10. The bureau may not assess points under the point system for a violation of

this chapter.

As added by P.L.67-2004, SEC.12.

IC 9-19-11-11

Violation; not basis for habitual offender determination

Sec. 11. A violation of this chapter may not be included in a determination of habitual violator status under IC 9-30-10-4.

As added by P.L.67-2004, SEC.13.

IC 9-19-10

Chapter 10. Passenger Restraint Systems

IC 9-19-10-1

Application of chapter

Sec. 1. This chapter does not apply to a front seat occupant who meets any of the following conditions:

- (1) For medical reasons should not wear safety belts.
- (2) Is a child required to be restrained by a child restraint system under IC 9-19-11.
- (3) Is traveling in a commercial or a United States Postal Service vehicle that makes frequent stops for the purpose of pickup or delivery of goods or services.
- (4) Is a rural carrier of the United States Postal Service and is operating a vehicle while serving a rural postal route.
- (5) Is a newspaper motor route carrier or newspaper bundle hauler who stops to make deliveries from a vehicle.
- (6) Is a driver examiner designated and appointed under IC 9-14-2-3 and is conducting an examination of an applicant for a permit or license under IC 9-24-10.

As added by P.L.2-1991, SEC.7. Amended by P.L.67-2004, SEC.2.

IC 9-19-10-2

Front seat occupants; safety belt standards; use of belt

Sec. 2. Each front seat occupant of a passenger motor vehicle that is equipped with a safety belt meeting the standards stated in the Federal Motor Vehicle Safety Standard Number 208 (49 CFR 571.208) shall have a safety belt properly fastened about the occupant's body at all times when the vehicle is in forward motion.

As added by P.L.2-1991, SEC.7.

IC 9-19-10-2.5 Repealed

(Repealed by P.L.67-2004, SEC.14.)

IC 9-19-10-3 Version a

Stopping, inspecting, or detaining vehicle

Note: This version of section amended by P.L.57-1998, SEC.2. See also following version of this section amended by P.L.116-1998, SEC.2.

Sec. 3. (a) Except as provided in subsection (b), a person may not be stopped, inspected, or detained solely to determine compliance with this chapter.

(b) Subsection (a) does not apply to a stop, an inspection, or a detention of a person to

determine compliance with section 2.5 of this chapter.

As added by P.L.2-1991, SEC.7. Amended by P.L.57-1998, SEC.2.

IC 9-19-10-3 Version b

Stopping, inspecting, or detaining vehicle

Note: This version of section amended by P.L.116-1998, SEC.2.

See also preceding version of this section amended by P.L.57-1998, SEC.2.

Sec. 3. A vehicle may be stopped to determine compliance with this chapter. However, a vehicle, the contents of a vehicle, the driver of a vehicle, or a passenger in a vehicle may not be inspected, searched, or detained solely because of a violation of this chapter.

As added by P.L.2-1991, SEC.7. Amended by P.L.116-1998, SEC.2.

IC 9-19-10-4

Educational programs

Sec. 4. The bureau, in cooperation with the Indiana department of transportation, division of traffic safety, shall develop and administer educational programs for the purpose of informing the general public of the benefits that will inure to passengers using safety belts.

As added by P.L.2-1991, SEC.7.

IC 9-19-10-5

Retail sales, leases, trades, and transfers

Sec. 5. A person may not buy, sell, lease, trade, or transfer from or to Indiana residents at retail an automobile that is manufactured or assembled, commencing with the 1964 models, unless the automobile is equipped with safety belts installed for use in the front seat.

As added by P.L.2-1991, SEC.7.

IC 9-19-10-6

Belt and installation specifications

Sec. 6. (a) A safety belt must be of a type and must be installed in a manner approved by the bureau.

(b) The bureau shall establish specifications and requirements for approved types of safety belts and attachments to the safety belts.

(c) The bureau shall accept, as approved, a seat belt installation and the belt and anchor meeting the Society of Automotive Engineers' specifications.

As added by P.L.2-1991, SEC.7.

IC 9-19-10-7

Failure to comply; fault; liability of insurer; mitigation of damages

Sec. 7. (a) Failure to comply with section 1, 2, 3, or 4 of this chapter does not constitute fault under IC 34-51-2 and does not limit the liability of an insurer.

(b) Except as provided in subsection (c), evidence of the failure to comply with section 1, 2, 3, or 4 of this chapter may not be admitted in a civil action to mitigate damages.

(c) Evidence of a failure to comply with this chapter may be admitted in a civil action

as to mitigation of damages in a product liability action involving a motor vehicle restraint or supplemental restraint system. The defendant in such an action has the burden of proving noncompliance with this chapter and that compliance with this chapter would have reduced injuries, and the extent of the reduction.

As added by P.L.2-1991, SEC.7. Amended by P.L.121-1993, SEC.1; P.L.1-1998, SEC.95.

IC 9-19-10-8

Failure of front seat occupant to use belt; violation; classification; assessment of points

Sec. 8. (a) A person who:

(1) is at least sixteen (16) years of age; and

(2) violates section 2 of this chapter;

commits a Class D infraction.

(b) The bureau may not assess points under the point system for Class D infractions under this section.

As added by P.L.2-1991, SEC.7. Amended by P.L.57-1998, SEC.3; P.L.116-1998, SEC.3.

IC 9-19-10-9

Retail transfers of vehicles and belt and installation specifications; violation; classification

Sec. 9. A person who violates section 5 or 6 of this chapter commits a Class C infraction.

As added by P.L.2-1991, SEC.7.

Federal Statutes:

<http://www.nhtsa.dot.gov/people/injury/airbags/VehOccProtectionLaws.pdf>